

## REMARKS

### I. Office Action Summary

Claims 1-5, 7, and 21-30 are pending. Claims 1, 21, and 26 are the independent claims. In the Office Action mailed December 11, 2007, Examiner rejected Claims 1, 3-4, 7, 21, 23, and 25 as anticipated under 35 U.S.C. §102(e) by Dunn et al. (US 5,916,302).

Examiner also rejected the following claims in the following combinations as obvious under 35 U.S.C. §103(a):

Claims	Examiner-cited Reference Combination
2, 5, 22, 26, 27, 29, 30	Dunn et al. and Berkley et al.
24	Dunn et al., Berkley et al., and Fukuoka et al. (U.S. 5,914,940)
28	Dunn et al., Berkley et al., and DeSimone et al. (U.S. 6,138,144)

### II. 35 U.S.C. § 102(e) Rejections of Independent Claims 1 and 21

Independent Claims 1 and 21 were rejected as anticipated under 35 U.S.C. §102(e) by Dunn et al. (US 5,916,302). Although of different scope, claims 1 and 21 both include a feature of automatically establishing a virtual data channel. In the final Office Action, Examiner asserts that Dunn et al. teaches automatic establishment of a separate data channel. Applicant respectfully disagrees. Dunn et al. teaches manual establishment of separate voice and data channels by each conference participant. Equating manual establishment of a data channel with "automatic establishment" of a data channel is inconsistent with the plain meaning of the term "automatic," and moreover, is inconsistent with use of the term "automatic" in the specification.

Words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. MPEP 2101.01. The specification

may also provide evidence of the ordinary and customary meaning of a claim term. MPEP 2101.01. The Merriam-Webster Collegiate Dictionary, Eleventh Edition, defines “automatic” as involuntary, reflexive, or spontaneous action, “done or produced as if by machine.” This plain meaning of the term “automatic” is consistent with the use of the term in the specification. Paragraph 32 of the specification discloses establishment of a virtual data channel by the system, not the calling party or the called party: “The system then automatically uses the data addresses of the two sides to set up a virtual data channel between the caller and the called party (at step 94) over a packet data network.” The plain meaning of “automatic” is further supported in Figure 6, a flowchart of the exemplary steps for establishing a virtual data channel. The first step of the flowchart, labeled “Caller Makes the Call,” is the last point that the caller has any involvement in establishing a conference connection. Moreover, Figure 6, Reference 94, shows the Service Central Point (SCP), not the calling party or the called party, creating the virtual data channel.

Applicant respectfully maintains that Dunn et al. does not disclose automatic establishment of a data channel consistent with the plain meaning of the claims in view of the specification. Rather, Dunn et al. Column 6 lines 56-61 discloses that each conference participant establishes separate voice and data linkages to the network. Moreover, Dunn et al. Column 6, lines 2-10 and 51-55 explains that the voice channel cannot “coordinate,” “interrelate,” or “affect[]” the functions and services provided by the data channel, and therefore, only the end users could act to coordinate data transfers with voice. Therefore, establishment of a separate data channel in Dunn et al. is a manual process, not an automatic one.

Applicant respectfully submits that, for at least these reasons, Claims 1 and 21 are allowable over the art of record. Claims 2-5, 7, 22-25 are dependent claims, and therefore their allowability directly follows from the allowability of independent Claims 1 and 21.

### **III. 35 U.S.C. § 103(a) Rejection of Independent Claim 26**

In the rejection of independent Claim 26, Examiner asserts that Dunn et al. teaches automatic establishment of a separate data channel. For the reasons outlined above in Section II of the Remarks, Applicant again respectfully submits that Dunn et al. does not disclose this limitation.

Applicant respectfully submits that, for at least these reasons, Claim 26 is allowable over the art of record. Claims 27-30 are dependent claims, and therefore their allowability directly follows from the allowability of independent Claim 26.

### **IV. Examiner Interview**

Applicant participated in an interview with the Examiner on February 13, 2008. During the interview, Applicant discussed the applicability of Dunn et al. to the independent claims. Specifically, Applicant respectfully maintained that in Dunn et al., participants manually establish separate voice and data connections, as supported by Figure 6, Reference 36, and the corresponding text of the specification. Further, Applicant noted that the term "automatically" as used in the independent claims is supported by, for example, Paragraph 32 of the specification: "The system then automatically uses the data addresses of the two sides to set up a virtual data channel between the caller and the called party (at step 94) over a packet data network."

In the interview of February 13, no final agreement was reached. The Examiner and Examiner's supervisor did tentatively agree that the amendments incorporated herein would overcome the rejections based on Dunn et al., but stated that the pending claims were not allowable without a new art search.

### **V. Amendments to Independent Claims 1, 21, and 26**

Although Applicant respectfully disagrees with the Examiner's rejection of Claims 1, 21, and 26, Applicant amends Claims 1, 21, and 26 to obviate Examiner's rejections in order to expedite the issuance of a Notice of Allowance. Amended Claims 1, 21, and 26 recite establishing a virtual data channel in

response to receiving the telephone call at the telephony network. Dunn et al. does not disclose, teach or suggest at least this limitation.

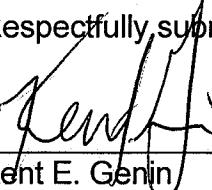
Rather, Dunn et al., Column 6, lines 58-60 and Column 9, lines 9-11 disclose conference participants establishing their own voice and data connections to the Public Switched Telephony Network (PSTN). A conference participant in Dunn et al. cannot establish a data connection in response to receiving a telephone call at the telephony network. The Public Switched Telephony Network (PSTN) disclosed in Dunn et al. Column 1, lines 17-19 is the "aggregate of all telephone communication resources available to members of the public at large" and is not a location where a conference participant can receive a telephone call and establish a data channel in response to receiving a telephone call.

Applicant respectfully submits that, for at least these reasons, Claims 1, 21, and 26 are allowable over the art of record. Claims 2-5, 7, 22-25, and 27-30 are dependent claims, and therefore their allowability directly follows from the allowability of independent Claims 1, 21, and 26.

## VI. Conclusion

Applicant submits that this application is in condition for allowance. A Notice of Allowance is respectfully solicited. It should be noted that while the above remarks have focused only on certain elements of the independent claims, other elements of the independent claims (and the dependent claims) provide additional grounds of patentability. Applicant reserves the right to present arguments concerning these additional grounds at a later time, if necessary.

Respectfully submitted,



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